

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

STATE OF NEW JERSEY,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
TRANSPORTATION, FEDERAL HIGHWAY
ADMINISTRATION, SHAILEN BHATT, in his official
capacity as Administrator of the Federal Highway
Administration, and RICHARD J. MARQUIS, in his official
capacity as Division Administrator of the New York Division
of the Federal Highway Administration,

Defendants,

and

METROPOLITAN TRANSPORTATION AUTHORITY and
TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY,

Defendant-Intervenors.

Civil Case No. 2:23-cv-03885

DECLARATION OF CAMILLA AKBARI

I, Camilla Akbari, declare under penalty of perjury that the following statements are true and correct:

1. I am an associate at King & Spalding LLP and counsel for Plaintiff the State of New Jersey (“New Jersey”) in this action.

2. I submit this Declaration in support of New Jersey’s proposed Order to Show Cause seeking clarification of this Court’s December 30, 2024 Order, a temporary restraining order (“TRO”), and ultimately, a preliminary injunction (1) enjoining Defendants and Intervenor-

Defendants during the pendency of the remand proceedings ordered by this Court, *see* ECF No. 191, and during the subsequent resolution of this litigation in this Court, from taking any further action to implement the Central Business District Tolling Program pursuant to the Final Environmental Assessment (“EA”) and Finding of No Significant Impact (“FONSI”) pertaining to that Program, and (2) granting such other relief against Defendants and Intervenor-Defendants as this Court deems just and proper.

3. New Jersey’s application is brought by Order to Show Cause rather than by Notice of Motion because swift action is required to prevent Intervenor-Defendants from implementing the Central Business District congestion pricing scheme on January 5, 2025, prior to the completion of all proceedings relating to the remand ordered by this Court.

4. As more fully set forth in New Jersey’s Memorandum of Law in Support of Its Application by Order to Show Cause for Clarification and/or Reconsideration and for a Temporary Restraining Order and Preliminary Injunction, New Jersey faces immediate and irreparable injury before Defendants and Intervenor-Defendants can be heard in opposition to this Order to Show Cause. Intervenor-Defendants are poised to launch a first-of-its-kind congestion pricing scheme in five days that will cause immediate, significant traffic diversions and attendant air quality increases in parts of New Jersey. As the Court correctly held, the Final EA and FONSI do not demonstrate that these impacts will be adequately mitigated. ECF No. 191 at 50–53. On this basis, the Court held that “FHWA and [the] Project Sponsors acted in an arbitrary and capricious manner in reaching their mitigation determination in the Final EA and FONSI” and remanded the matter to Defendants and Intervenor-Defendants. ECF No. 191 at 52–53. The remand proceedings are scheduled to extend into at least mid-February 2025—weeks after the MTA flips the switch on congestion pricing scheme.

5. Accordingly, New Jersey asks this Court to clarify that its December 30, 2024 decision remanding this matter to FHWA vacates the Final EA and FONSI for the duration of the additional proceedings required by the Court, issue the TRO and preliminary injunction as set forth in the attached proposed Order to Show Cause, and immediately enter a TRO until it can hold a hearing on the relief requested by New Jersey.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 31, 2024

A handwritten signature in black ink, appearing to read "Camilla Akbari", written over a horizontal line.

Camilla Akbari